

PT 98-37

Tax Type: **PROPERTY TAX**

Issue: **Religious Ownership/Use**

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**THE MOODY CHURCH,
(CAMP MOYOCA)
APPLICANT**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

Docket No: 95-49-221

Real Estate Exemption

**For 1995 Tax Year
P.I.N. 02-21-300-011**

Lake County Parcel

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Willard N. Nyman on behalf of the Moody Church.

SYNOPSIS

This proceeding raises the limited issue of whether Lake County Parcel Index Number 02-21-300-011 (hereinafter the “subject property” or “subject parcel”) should be exempt from 1995 property taxes as “property used exclusively for religious purposes” under Section 15-40 of the Property Tax Code.¹

¹ In People ex. rel. Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption necessarily depends on the statutory provisions in force during the time for which the exemption is claimed. This applicant seeks exemption from 1995 real estate taxes. Therefore, the applicable provisions are those found in section 15-40 of the Property Tax Code (35 ILCS 200/15-40 (1996)).

This controversy arose as follows:

On June 2, 1995, The Moody Church (hereinafter “Moody” or “applicant”) filed an Application for Property Tax Exemption with the Lake County Board of Review. Dept. Group Ex. No. 1, Doc. A. The Board reviewed the complaint and on September 28, 1995, recommended that an exemption be granted for the 1995 tax year. On January 16, 1997, the Illinois Department of Revenue (hereinafter the “Department”) declined to follow the Board’s recommendation and denied the exemption concluding that the property was not in exempt use. Moody filed a timely appeal seeking to have the subject property exempted for the 1995 tax year. On June 30, 1997, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence, it is recommended that the subject parcel be denied a property tax exemption for the 1995 tax year.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 establishes the Department’s jurisdiction over this matter and its position that the subject parcel was not in exempt use in 1995.
2. The subject parcel is located at 22925 W. Villa Rica Road in Antioch Illinois. Dept. Gr. Ex. No. 1.
3. The subject parcel consists of 7.813 acres of land which is used for three purposes, a sewage pond, a parking lot, and a soccer field. Tr. pp. 17-19. App. Ex. Nos. 6, 7.
4. On December 21, 1993, Moody acquired title to the subject property via a warranty deed. App. Ex. Nos. 4, 5.

5. Moody operates a camp called Camp Moyoca (hereinafter the “Camp”) which is located across the road from the subject parcel. Tr. pp. 17-19.
6. On May 10, 1994, plans were prepared for using the subject parcel for a soccer field, a sewage pond, and a parking lot. Those plans were approved by the Building and Zoning Department on January 3, 1995. App. Ex. no. 7.
7. Moody began using the sewage pond in 1994. App. Ex. 8.
8. Moody began using the parking lot in 1995. Tr. p. 18.
9. Moody began using the soccer field in 1996 or 1997. Tr. p. 19.
10. Moody has not rented the subject property to anyone for a profit, but did allow other groups to use the camp for a fee. Tr. p. 21.

CONCLUSIONS OF LAW

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony, exhibits and argument, evidence sufficient to warrant an exemption for the 1995 tax year. In support thereof, I make the following conclusions:

Prior to 1909, the law required that religious property exemptions would be granted only if the party using the property for religious purposes also owned the property. People ex rel. Bracher v. Salvation Army, 305 Ill. 545 (1922). Since that time however, statutory changes have eliminated the ownership requirement. *Id.* Section 15-40 of the Property Tax Code now provides, “All property used exclusively for religious purposes, *** is exempt[.]” 35 ILCS 200/15-40 (1996). Thus, today the main

prerequisite for a religious property tax exemption, in cases not involving parsonages, is that the property in question be used exclusively² for religious purposes.

The taxpayer seeking the exemption bears the burden of proving by clear and convincing evidence that the exemption applies. Evangelical Hospitals Corp. v. Dep't of Revenue, 223 Ill. App. 3d 225, 231 (1991). Here, Moody failed to present clear and convincing evidence that the subject property was used exclusively for religious purposes in 1995. The evidence presented by Moody shows that in 1995, the subject property was used primarily for a parking lot and a sewage pond, with plans for an additional use as a soccer field. Those uses would not qualify the subject property for a religious exemption since such uses are not, in and of themselves, religious in nature. See generally McKenzie v. Johnson, 98 Ill. 2d 87 (1983).

Although it is somewhat unclear from the record, it is possible that Moody was seeking an exemption under the theory that the subject property was “reasonably necessary” to further the exempt purposes of other exempt property. See MacMurray College v. Wright, 38 Ill. 2d 272, 278 (1967) (exemption will be sustained if it is established that property is primarily used for purposes which are reasonably necessary for the accomplishment and fulfillment of an exempt institution’s exempt purposes); 35 ILCS 200/15-120 (1996) (exempting parking areas used as part of an exempt use). For

² The word “exclusively,” when used in Section 15-145 and other tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Gas Research Institute v. Department of Revenue, 145 Ill. App. 3d 430 (1987); Pontiac Lodge No. 294, A.F. & A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (1993).

this theory to be applicable to the instant case, Moody would have to present clear and convincing evidence that (1) the Camp was exempt and (2) the subject property was reasonably necessary to the Camp's exempt purposes.

I find that Moody failed to present clear and convincing evidence that the Camp itself was exempt. Granted, at the hearing, Bernard Elafros, a church elder and trustee, did make the bald assertion that *to the best of his knowledge* the Camp was tax exempt. However, such testimony was unsupported by any documentation verifying the Camp was in fact exempt. Moreover, my examination of departmental records reveals no evidence of such an exemption. Absent clear and convincing evidence that the Camp was exempt, there is no merit to any argument that the subject property was exempt based upon the Camp's exemption.

For the reasons set forth above, I recommend that the subject parcel be denied exemption from 1995 real estate taxes.

Date

Robert C. Rymek
Administrative Law Judge